IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 918 of 2001

in

SPECIAL CIVIL APPLICATIONNo 6858 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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NARSINH RAMJIBHAI PATEL
Versus
STATE OF GUJARAT

Appearance:
1. LETTERS PATENT APPEAL No. 918 of 2001
MR MA PAREKH for Appellant
..... for Respondent No. 1-4

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.P.BUCH

Date of decision: 07/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

Being aggrieved by the judgment delivered in Special Civil Application No.6858 of 2001, the appellants-original petitioners have approached this Court.

2. The appellants are aggrieved by a show cause notice issued to them by Mamlatdar, Jamkandorna under section 61 of the Bombay Land Revenue Code (for short, 'the Code'). The learned Single Judge rejected the petition as by virtue of the said petition, the show cause notice was challenged.

3. Learned Advocate Mr M A Parekh appearing for the original petitioners has submitted that even if the petitioners have any alternative efficacious remedy available to them, it is open to the petitioners to approach this Court. In support of the said submission, he has cited certain judgments. We do not dispute the said proposition.

4. It is not in dispute that the petitioners had approached this Court by way of filing petition for challenging the show cause notice. Instead of approaching this Court, the petitioners could have very well given the reply to the concerned officer. It has been now submitted by the learned Advocate that in fact the petitioners had appeared before the concerned officer through an Advocate and the reply to the show cause notice has been given. In the said reply it has been specifically stated that the officer who had issued the notice had no authority to issue such a notice under the provisions of section 61 of the Code.

5. We are sure that the concerned officer shall consider all the issues raised by the petitioners and shall deal with the same before passing any order. We are also sure that the concerned Officer shall pass a reasoned order if he passes any order adverse to the petitioners.

6. As the petitioners have approached this Court for challenging the show cause notice, we do not entertain this appeal as we do not find any illegality committed by the learned Single Judge. This Appeal is dismissed. Direct Service is permitted.

7.9.2001 [A R Dave, J.]
msp.

[D P Buch, J.]